

The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

September 26, 2001

Dear Xxxxx:

This letter is in response to your letter dated August 18, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

After talking with PERSON on the matter of AAA Farm Equipment wanting to charge me with sales tax on an Arctic Cat four-wheeler that I purchased on November 23, 1998, he advised me to mail photos and copies of paper work on purchase of unit to Legal Services.

I was sold this unit completely and totally under the understanding that since this was bought for the purpose of spraying and growing crops, that there would not be any sales tax applied. I have enclosed copies of all paper work and photos of what I do with this equipment.

I do not feel that I am responsible for sales tax almost three years later, when the selling point was that they could sell me it for \$6,100.00 and no sales tax since it was to be used for farm use. I do, however, feel the only people responsible for this tax is AAA Farm Equipment and the employees that sold it to one under the assumption that there would not be any tax applicable.

Please contact me regarding your decision on this matter. Thank you.

The Retailers' Occupation Tax does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.305, which are the Department's regulations for "Farm Machinery and Equipment."

Section 130.305(h) states that all-terrain vehicles (ATVs) may qualify if they are used primarily in production agriculture activities such as pulling sprayers while they apply chemicals to fields or

collecting and mapping soil samples. The use of ATVs for farm transportation or recreation purposes does not constitute production agriculture. When ATVs are used in both production agriculture and non-qualifying activities, the primary use will determine if they qualify for exemption.

Based upon the pictures that you provided and the representations you have made regarding the primary agricultural use of the unit, your purchase of the Arctic Cat four-wheeler is an exempt purchase. Please note that if you do not use the four-wheeler primarily in production agriculture, it is not exempt from sales tax. In order to document to your supplier that this was an exempt sale, you must provide the certification required in Section 130.305(m). The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily in production agriculture or in State or Federal agricultural programs.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.